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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 16, 2001

IN THE MATTER OF

SHANNON FOREST WATER CORPORATION

CASE NO. PUE010588

Appointment of a Receiver

INITIAL ORDER

On October 30, 2001, customers of Shannon Forest Water Corporation ("Shannon Forest" or the "Company") filed with the Clerk their "Shannon Forest Waterworks (Franklin Co.)-Petition to Appoint Receiver (hereinafter the "Petition")."¹ According to the Petition, at 1, the Company is unable or unwilling to provide adequate service, and a receiver should be appointed. The petition also represented that 47 residents had signed, and that this number represented more than two-thirds of Shannon Forest's customers.

Attached to the Petition were two Virginia Department of Health documents: a letter of July 12, 2000, from Robert A. K. Payne of the Department to Doris Hurd of Shannon Forest transmitting a copy of Special Order Issued to Doris Hurd, President, Shannon Forest Water Company, Inc., Owner of the

¹ The Petition and attached Virginia Department of Health documents refer to Shannon Forest Waterworks. The Commission will use the corporate name as it appears in our records.

Shannon Forest Waterworks (State Board of Health Order No. 7-2000-(08), June 7, 2000), and a letter of September 12, 2001, from Gregory T. Flory of the Department to Doris Hurd. Mr. Payne advised in his letter that the State Board of Health had ordered action to bring the waterworks into compliance with the Virginia Waterworks Regulations. Mr. Flory informed Ms. Hurd that installation of certain equipment and flushing had not solved a water quality problem.

On October 31, 2001, Mr. Payne of the Department filed with the Clerk a letter expressing the Department's support for the Petition.

As a preliminary matter, the Commission must determine whether it has jurisdiction to appoint a receiver. The Small Water or Sewer Public Utility Act, Chapter 10.2:1 (§56-265.13:1 et seq.) of Title 56 of the Code of Virginia (Small Water Act), exempts certain water and sewer utilities from many of the requirements imposed by Title 56 of the Code and establishes a simplified procedure for revising rates. The Small Water Act, §56-265.13:6.1 of the Code, also empowers the Commission to appoint a receiver after certain conditions are satisfied.

We must first consider whether Shannon Forest falls under the Small Water Act. As provided by §56-265.13:3 of the Code, the Small Water Act applies to certificated water companies with gross annual operating revenues of less than one million

dollars. On December 27, 1999, the Commission granted to Shannon Forest Certificate No. W-295 to provide water service. Shannon Forest Water Corp., Case No. PUE970752, 1999 S.C.C. Ann. Rep. 394. In determining the gross annual operating revenues, the Commission will take notice of the Company's Annual Financial and Operating Report filed with the Commission's Division of Public Utility Accounting and its Annual Report filed with the Commission's Public Service Taxation Division. According to both reports for the year 2000, Shannon Forest had revenues of \$16,153. Consequently, the Commission finds that the Company is subject to our jurisdiction conferred by the Small Water Act. We will, however, afford Shannon Forest an opportunity to challenge this finding of jurisdiction under the Small Water Act.

The Small Water Act, §56-265.13:6.1 A of the Code, provides three means of initiating a receivership: petition of the Board of Health, petition of the Commission Staff, or petition of two-thirds of the affected customers. A petition filed under the third method is before the Commission. Shannon Forest's Certificate No. W-295 authorizes service only to the Shannon Forest subdivision in Franklin County. For the purpose of determining whether the petition for appointment of a receiver is properly before the Commission, we tentatively find that all

of the Company's customers are affected. We will afford Shannon Forest an opportunity to challenge this tentative finding.

The Commission must next determine whether two-thirds of these affected customers have petitioned. According to the Petition, at 1, 47 customers had signed. In its Annual Financial and Operating Report filed with the Division of Public Utility Accounting, Shannon Forest reported 62 customers at the end of 2000. The Annual Report filed with the Public Service Taxation Division shows that Shannon Forest had 54 meters and 51 services. Given this information provided by the Company, the Commission tentatively finds that more than two-thirds of affected customers petitioned, and the petition is properly before the Commission. As with our previous findings, we will provide Shannon Forest an opportunity to challenge the number of petition signatories.

Before the Commission proceeds to a hearing as required by §56-265.13:6.1 A of the Code, we will provide notice to Shannon Forest and the Department of Health. We also authorize the Company to respond to the petition and to raise any arguments concerning the findings we made to support Commission jurisdiction. Accordingly, IT IS ORDERED that

(1) As provided by the Small Water or Sewer Public Utility Act, Chapter 10.2:1 (§56-265.13:1 et seq.) of Title 56 of the Code of Virginia, this petition is docketed, assigned Case

Number PUE010588, and that all associated papers be filed therein.

(2) Forthwith upon the filing of this Order, the Clerk shall mail by certified mail with return receipt requested an attested copy of the Order and a copy of the Petition to Shannon Forest's registered agent, George I. Vogel, II, Esquire, 13425 Booker T. Washington Highway, Hardy, Virginia 24101; and to the State Health Commissioner, P.O. Box 2448, Richmond, Virginia 23218-2448.

(3) On or before December 12, 2001, Shannon Forest shall file with the Clerk an original and fifteen (15) copies of an answer to the Petition as provided by the Commission's Rules of Practice and Procedure (the "Rules"), 5 VAC 5-20-100 B, and shall simultaneously serve a copy on the Commissioner of Health as provided by the Rules, 5 VAC 5-20-140. Shannon Forest may challenge in its answer any findings made on jurisdiction discussed in this Order.

(4) On or before December 19, 2001, the Commissioner of Health and any other interested person may file with the Clerk an original and fifteen (15) copies of a notice of participation as a respondent, as provided by the Rules, 5 VAC 5-20-80 B, and shall simultaneously serve a copy on Shannon Forest's registered agent.